

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 5:20 CR 262
)	
Plaintiff,)	JUDGE SOLOMON OLIVER
)	
V.)	
)	
CHRISTIAN FERGUSON)	<u>DEFENDANT'S MOTION TO</u>
)	<u>AMEND PRETRIAL</u>
Defendant.)	<u>DETENTION</u>
)	

Now comes the Defendant, Christian Ferguson, by and through counsel request the Court reconsider the detention ruling pursuant to 18 U.S.C. §3142, and seeks release pending trial currently scheduled for May 3rd, 2021.

The court has the authority to at any time amend the order to impose additional or different conditions of release.

Respectfully submitted,

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I. Procedure Background

Mr. Ferguson was arrested on May 8th, 2020, and charged with two (2) Counts of Attempt Kidnapping in violation of Title 18 U.S.C. §1201(a)(2) and (5)(d).

Mr. Ferguson initially waived a detention hearing, but filed a Motion to Reopen it on July 16th, 2020 (ECF no. 13) with the with the government opposing the Motion (ECF no. 14). The Court order denied the Motion to Reopen (ECF no. 15), and Ferguson has been detained for ten (10) months.

II. Argument

Under the Bail Reform Act, the defendant must be detained pending trial if the Court determines that no condition or combination of conditions “will reasonably assure the appearance of the person as required and the safety of any other person and community. 18 U.S.C. §3142(e).

The Motion filed in April 2020 focused primarily on the serious risk of illness he faced due to the COVID-19 pandemic.

The undersigned is arguing the court to readdress the 18 U.S.C. §3142(g) 1-4 factors which weigh in favor of releasing Ferguson and to consider amending its previous order of detention and consider home confinement and/or release to a halfway house.

1. Nature and Circumstances of Offense and Weight of Evidence

The government's theory is on May 8th, 2020, Mr. Ferguson was rehearsing an actual plan to confiscate equipment from park rangers and was willing to cause physical harm to obtain the material.

The government's case is based primarily on posts Mr. Ferguson made, and discussions he had with two (2) paid undercover confidential informants. The majority of the ideas originated with the informants. Mr. Ferguson was susceptible to such influence based upon his age, and had a lifelong obsession with being a member of the Armed Forces.

It is interesting to note on May 8th, 2020, the date of the alleged rehearsal, no weapons were recovered, no one was injured, and the location to this rehearsal was chosen by the government informants, namely a federally maintained park. The majority of the government's case is based upon the posts and conversation of Mr. Ferguson, many of which may be protected under the First Amendment. The Government also relies on Ferguson's post arrest statements, but the majority of those were after hours of interviews, and the continued clever questioning by the agents to illicit admissions premised primarily on Ferguson telling the agent what they wanted to hear in hopes of being released.

2. Defendant's History and Characteristics

Mr. Ferguson has no criminal convictions and has lifelong ties to the community. The undersigned has been in close contact with Ferguson's father and his grandmother Betty Hines who have offered their support. The state case pending in Indiana has apparently been dismissed, and the undersigned is attempting to verify.

Conclusion

Mr. Ferguson is not a risk of flight nor a danger to the community. If released, Mrs. Hines will financially support him by providing an apartment and pay for electronic monitoring. Mr. Ferguson can secure immediate employment as a mechanic and can assist in the preparation of his defense for the upcoming trial.

In the alternative Ferguson would seek placement in a halfway house, where he could receive counseling and mental health assistance. Counsel has reached out to Oriana House to ascertain if a bed is available and is awaiting confirmation.

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